

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Petitioner,	)	
	)	No. 10 C 5425
v.	)	
	)	Judge
DUANE J. TERRAZAS,	)	
	)	
Respondent.	)	

**PETITION TO ENFORCE IRS SUMMONS**

The United States of America petitions for an order enforcing the IRS administrative summons served on respondent Duane J. Terrazas, and in support, avers as follows:

1. The court has jurisdiction over this matter under 26 U.S.C. §§ 7402 and 7604(a) and by 28 U.S.C. §§ 1340 and 1345.
2. The summoned person resides or may be found within this district. Respondent Duane Terrazas resides at 1011 North Washington Street, Wheaton, Illinois 60187-3857.
3. Lee Sila is a revenue officer of the Internal Revenue Service, employed in the Small Business/Self-Employed Division of the IRS in Downers Grove, Illinois 60515.
4. Revenue officer Sila is conducting an examination/investigation for the purpose of collecting the assessed, unpaid federal income tax liabilities of Duane J. Terrazas for the calendar years ending December 31, 1999, December 31, 2000, December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, December 31, 2006, and December 31, 2007. Declaration of Lee Sila, attached as Exhibit A.

5. In his capacity as an IRS revenue officer, Sila is authorized to issue IRS summonses pursuant to 26 U.S.C. § 7602, 26 C.F.R. § 301.7602-1, 26 C.F.R. § 301.7602-1T, and Internal Revenue Service Delegation Order No. 4 (as revised).

6. Pursuant to the above-described investigation, on December 15, 2009, Revenue Officer Sila issued an IRS administrative summons to Terrazas directing him to appear before Revenue Officer Sila on January 10, 2010 at 9:00 a.m., at the IRS office located in Downers Grove, Illinois. The summons directed Terrazas to appear and to provide documents and testimony relating to the collection of Terrazas's tax liabilities as referenced in paragraph four of the summons. Ex. A at 1.

7. On December 17, 2009, Revenue Officer Sila served an attested copy of the summons by leaving it at the last and usual place of abode of the person to whom it was directed. Ex. A at 2. A copy of the summons and certificate of service for same are attached as Exhibit B.

8. The respondent appeared at the IRS office located in Downers Grove, Illinois on January 10, 2010, as required by the summons, but failed to provide any of the documents that were requested in the summons. Ex. A at 2.

9. On March 15, 2010, a letter was sent to Terrazas proposing an alternative appointment to comply with the summons, scheduled for April 6, 2010 at 9:00 a.m. Ex. A at 2. Terrazas did not appear for that appointment. Ex. A at 2.

10. The United States does not seek enforcement of the summons with respect to those documents already within the IRS's possession.

11. All administrative steps required by the Internal Revenue Code for the issuance of the IRS summons have been followed.

12. The documents sought by the summons may be relevant to the IRS's investigation.

13. No Justice Department referral is in effect within the meaning of 26 U.S.C. § 7602(d)(2) with respect to Terrazas for the years under investigation.

14. In order to obtain enforcement of a summons, the United States must establish that the summons: (1) is issued for a legitimate purpose; (2) seeks information relevant to that purpose; (3) seeks information that is not already within the IRS's possession; and (4) satisfies all administrative steps required by the Internal Revenue Code. *United States v. Powell*, 379 U.S. 48, 57-58 (1964).

15. The attached declaration of revenue officer Sila (Exhibit A), incorporated into this petition by reference, establishes the government's *prima facie* showing under *Powell*.

WHEREFORE, the United States prays as follows:

A. That this court enter an order directing Terrazas to show cause in writing, if any, why he should not comply with and obey the aforementioned IRS summons and every requirement thereof;

B. That this court enter an order directing Terrazas to fully obey the subject summons and each requirement thereof, by ordering the attendance, testimony, and production required and called for by the terms of the summons, before revenue officer Sila, or any other proper officer or employee of the IRS, at such time and place as may be set by revenue officer Sila or any other proper officer or employee of the IRS;

C. That the United States recover its costs incurred in maintaining this proceeding; and

D. That the court grant such other and further relief as the court deems proper or justice may require.

Respectfully submitted this 27th day of August, 2010.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

By: s/ Amanda A. Berndt  
AMANDA A. BERNDT  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 353-1413  
amanda.berndt@usdoj.gov